TESTIMONY OF
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BEFORE THE
U.S. SENATE
COMMITTEE ON COMMERCE
"COMPETITION AND CONVERGENCE"

MARCH 30, 2006

Chairman Stevens, Co-Chairman Inouye and members of the Committee, thank you for the opportunity to appear before you to testify on two important issues, Competition and Convergence. My name is Steve Largent and as President and CEO of CTIA-The Wireless Association® ("CTIA"), I am pleased to be here today to discuss with this committee the tremendous success the wireless industry has had in providing American consumers with the greatest array of choices they have ever received from any telecommunications segment – choice of providers, service plans, devices, and much, much more. American consumers – rural and urban, rich and poor – have benefited enormously from your decision in 1993 to limit regulation of the industry. I urge your continued leadership in helping the wireless sector to continue being able to provide American consumers with the kinds of wireless services they want at prices they can afford. As we enter our third decade, the industry is poised to bring the Internet to its more than 200 million mobile subscribers. We are at a critical juncture in our evolution and need your leadership to help us stay the course in providing maximum benefits to the consumer.

The significant growth and expansion of the competitive mobile wireless industry has also had a profound impact on the U.S. economy. In 2004, approximately 3.6 million jobs were directly and indirectly dependent on the U.S. wireless telecommunications industry. In that same year, the wireless industry generated $118 billion in revenues and contributed $92 billion to the U.S. Gross Domestic Product. The wireless industry has continued its ongoing investments in the networks and other facilities needed to deliver increasingly sophisticated wireless services – with almost $174 billion in cumulative capital investment reported as of year-end 2004. Over the past five years, the wireless industry invested on average more than $20 billion annually in new facilities. In addition, carriers have bid in excess of $20 billion in winning spectrum licenses from the FCC. In the first six months of 2005, wireless carriers invested another $13 billion in capital, further demonstrating their commitment to improving and expanding the reach of existing services and also increasing the delivery of advanced capabilities to consumers across the country.

This temendous investment in infrastructure, coupled with a continued commitment to bring the best and most cutting edge services to Americans, has resulted in wireless consumers being able to obtain a converging array of mobile voice, data and video, profoundly changing the way we communicate and the way we live our lives. Indeed, the wireless industry is on the verge of a Renaissance as carriers obtain access to more spectrum and deploy faster technologies and more innovative entertainment services like games, mobile television (including news and sports), movie clips and music.

The Wireless Competition Story

In 1993, Congress amended Section 332 of the Communications Act and created a federal, national regulatory framework for "commercial mobile radio services," recognizing that a nascent industry like wireless needed air to breathe and develop. Congress wisely and pointedly decided not to subject the wireless industry to the economic regulation typically applied in the landline context at the federal and state levels. As a direct result of this historic Congressional high-tech, and pro-consumer initiative, industry growth exploded and consumers began realizing benefits rapidly. Over the next ten years, more than 160 million wireless customers signed-up for service. Today, the wireless industry provides service to more than 200 million consumers nationwide through more than 180 facilities-based providers, Mobile Virtual Network Operators (MVNOs) and others.

The FCC's 10th Annual Competition report to Congress last year noted that, "97 percent of the total U.S. population lives in counties with access to three or more different operators offering mobile telephone service, the same level as in the previous year, and up from 88 percent in 2000, the first year for which these statistics were kept. The percentage of the U.S. population living in counties with access to four or more and five or more different mobile telephone operators also remained roughly the same as in the previous year." Furthermore, the FCC also concluded that wireless companies are competing effectively in rural areas. In rural markets, the report notes, "there is no evidence in the record to indicate that" the existence of somewhat fewer competitors than in urban areas "has enabled carriers in rural areas

to raise prices above competitive levels or to alter other terms and conditions of service to the detriment of rural consumers."

Competition in the wireless marketplace has resulted in the cost of wireless service to consumers dropping 33% since 1997, and by more than 80% since 1994. Wireless service leads all U.S. telecommunications services in price declines since 1997. Consumers are getting more for less and doing more with it. In 1996, consumers used their mobile phones for an average of 125 minutes per month. In 2005, they used their mobile devices for more than 680 minutes per month. If the average wireless consumer in America spends $54 per month on wireless voice and data services, that same consumer would pay approximately $125 US for the same services in the European Union.

Hyper-competition among carriers has produced tailored service plan features and options, improved customer service, declining cost of service, ease of billing, and improvements in call performance. Dozens of rate plans are available in practically every market, from prepaid or pay-as-you-go plans, to family plans, and big bucket plans – almost all of which offer options like national, no-roaming, free or discounted nights and weekends, or in-network calling, as well as a wide variety of wireless phones and devices. In effect, there's a service plan and device tailor-made for you. In 2005, Harris Interactive found that 90% of wireless consumers are "very to somewhat" satisfied with their wireless service, and three-quarters of wireless consumers thought wireless a good value for the money. The highly competitive nature of the wireless industry is focusing carriers' attention on improving customer service, with increased numbers of customer service representatives and more

training, as recently reported by the New York Times. The industry's focus on customer care is reflected in the small number of complaints filed with the FCC. In the FCC's latest report on Consumer Complaints released in February of 2006, the FCC noted that wireless complaints fell 28% in the fourth quarter of 2005. (In fact, the monthly number of complaints fell 46% between August and December of 2005.) The total wireless complaints for the fourth quarter amounted to 24 complaints per million subscribers, equal to 0.0024%. That's 24 ten-thousandths of one-percent.

Although a number of high-profile mergers have occurred in the wireless industry over the past few years, the total number of commercially operational wireless companies has remained relatively constant, with more than 180 facilities-based companies identifiable as directly offering wireless service to consumers in markets across the country. The facilities-based companies include national, regional, affiliate, and independent operators. Additionally, numerous MVNOs have launched or announced the launch of service, including Disney, ESPN, TracFone, and Virgin Mobile, among others. Last year, RCR Wireless News published a list of 19 active MVNOs and resellers, estimated to serve a minimum of 10.6 million customers, indicating they offered prepaid, postpaid, and hybrid service plans to consumers.

Facilities-based licensees continue to announce the initiation of service, expansion of networks, and the construction of new cell sites in markets – including rural markets – across the country. They also continue to modify their market holdings in order to establish footprints they believe will allow them "to more effectively provide value and services to customers," as well as more robust spectrum

holdings in order to deliver more spectrum-intensive services to more people. The FCC's Memorandum Opinion and Order approving the merger of Sprint and Nextel noted the potential benefits to customers from the combination, including faster data rates and interoperability between push-to-talk capabilities. Likewise, Cingular Wireless has noted its on-going upgrading of the combined network resulting from the acquisition of AT&T Wireless' operations, and the greater capabilities offered by its increased spectrum holdings.

Convergence: The Wireless Perspective

The proliferation of IP-based networks has clearly pushed industry segments away from silo models to a more integrated delivery system. Where does wireless fit in? Mobile voice has begotten digital mobile voice and data which has given rise to e-mails away from the office, mobile photography, mobile music and mobile media. The fully converged wireless network will permit consumers to access voice, video, and an extraordinary array of data services – at home, at work, in cafes, and on the move. The wireless platform offers a solution that overcomes some of the technological and economic challenges inherent in any wired environment, extending the reach of broadband technologies to traditionally underserved communities, including rural areas and less affluent urban markets. Mobility, however, is the factor that separates wireless from other broadband services, and mobility is the primary reason wireless broadband has the potential to grow at unprecedented rates.

Mobile broadband services are already spreading across the country. In December of 2005, Cingular Wireless announced that subscribers could access its BroadbandConnect service through Cingular's new 3G network. Verizon Wireless

has launched a broadband network based on evolution data only ("EV-DO") technology available in 171 metropolitan markets covering more than 140 million people. Sprint Nextel began to roll out its EV-DO technology in mid-2005 and now offers wireless broadband services in 208 markets. Alltel offers both its Axcess Broadband service which feature bursts up to 2.4 Mbps and average speeds of 400 to 700 Kbps, and its Axcess Mobilink service which lets customers use the Internet with bursts up to 144 Kbps and average speeds of 40 to 70 Kbps. In addition to its extensive network of wireless hotspots, T-Mobile offers mobile Internet access though its GPRS service. According to CTIA's own semi-annual wireless industry survey, as of mid-2005, half of all wireless customers had mobile devices that were capable of web-browsing.

These and a host of other applications and advanced services are being offered in rural and urban areas across the country by these and other carriers, including: Alaska Communications Systems' ACS Mobile Broadband service, and the broadband and mobile Internet services of Cellular South, Cellular One of Amarillo, Dobson Cellular, First Cellular of Southern Illinois, and Midwest Wireless, and U.S. Cellular's array of easyedgeSM data services. Many other wireless applications (such as mobile television, multimedia messaging, text messaging, and wireless e-mail) are now being offered across the country.

Mobile television is an application that has attracted the attention of both wireless carriers and network programmers, and is the basis for competitive offerings both inside the CMRS space and between CMRS and other providers. Informa Telecoms & Media, a British consultancy, predicts that in just five years, there will be

more users of broadcast mobile television worldwide – 124.8 million – than there are currently U.S. television homes (110 million). It has been reported that 2.4 million wireless customers in the U.S. viewed some form of mobile video in September 2005, and that 10 percent of wireless users expect to view some form of mobile video in 2006.

MobiTV, Inc. (formerly known as Idetic, Inc.), a third party provider of video programming, offers a multitude of program networks, including The Discovery Channel, ESPN, MSNBC, and the Weather Channel. Sprint Nextel, Cingular Wireless, Midwest Wireless, Alltel, and Cellular South all currently offer MobiTV service in the U.S., while Centennial Wireless and Verizon Wireless offer MobiTV service in Puerto Rico. Subscribers to Verizon Wireless' V CAST service also have access to content from NBC, CNN, Fox Sports, and ESPN, among other content providers.

These are just some of the offerings that demonstrate we are in the midst of a wireless Renaissance. In addition to video applications, other applications or features now available with wireless devices include a variety of competing music services, and the broad suite of functions included on Smartphones and other advanced handheld devices. The iTunes-equipped wireless phone, the satellite-radio equipped phone, and the potential for the m-commerce and proximity payments enabled by wireless handsets – all figure in the evolving wireless converged marketplace.

The Wireless Renaissance: Bringing the Internet to You

Today, wireless carriers are the standard bearers for competition and in the process of rolling out a wide variety of mobile broadband services. From a once local

and high-priced voice service, wireless has become an unbounded array of affordable national and regional service offerings as the competitive landscape has driven on-going innovation in services and technologies, and lowered prices for consumers. Although CTIA believes the best is yet to come, storm clouds are on the horizon. A patchwork quilt of state-by-state regulations threatens to undermine the ability of wireless carriers, suppliers, and developers to collectively bring new services to consumers and business users across the country.

State legislation regulating carrier billing practices threatens to balkanize the regulatory environment for wireless services. The wireless industry has developed sufficient guidelines that ensure customer billing information is clear and non-misleading while enabling carriers the flexibility to differentiate themselves in the market. State laws would undermine these market-oriented, consumer-focused solutions and hinder the industry's ability to compete in the converging telecommunications marketplace. Each instance of state regulation will exponentially complicate the provision of mobile wireless services that are interstate in nature. Even regulation by a small handful of states threatens to undermine the nationwide and regional calling plans that now are so commonly purchased by consumers. Consumers in rural areas, where the cost of service tends to be higher, are particularly threatened by regulation that could put an end to uniform nationwide calling plans. In addition, both large national and small regional wireless carriers will be harmed by inconsistent state-by-state regulations. Congress should preempt state laws that would conflict with its national framework for carrier practices and regulate

only in instances necessary for public health and safety or demonstrated market failure.

State regulation of CMRS must be preempted in order to facilitate a national regulatory framework. A deregulatory national framework, consistent across 50 State jurisdictions, is the best way to protect consumers' rights and promote access to innovative and convenient wireless devices and services. The adoption of even one of these bills could immediately impact nationwide service offerings and prices. The problems associated with State-by-State regulation would escalate exponentially as each new State implements its own laws. Even State laws that appear to be consistent on their face run the very real risk of being implemented or enforced in an inconsistent manner. Absent strong federal action, activity in the States will create a patchwork of complex and conflicting regulatory and legal schemes that would negatively impact consumers throughout the country.

Wireless carriers have reduced the number and complexity of pricing plans, reducing or eliminating additional charges for roaming, peak/off-peak, and long distance calling. Wireless carriers have also made enormous improvements in how consumers are informed about, acquire, and manage their wireless services. Website and in-store literature provide details on price, plans and other options. Wireless carriers have also developed sophisticated on-line tools to provide more efficient and user-friendly self-care options – from checking minute usage to signing up for new services to paying bills via the Internet and via the mobile phone itself. Wireless companies now list on their bills contact information not only for their own customer

service departments, but also for state and federal regulatory agencies, including TTY contact information.

As the wireless industry strives to become a broadband alternative for millions of Americans, the cost of service is critical for widespread acceptance. The significant decline in prices for wireless consumers, that resulted from competition rather than regulation, is increasingly threatened by excessive and discriminatory taxation at the state and local level. Nearly five years after the National Governors Association (NGA) and the National Conference of State Legislatures (NCSL) urged states to reform and modernize their telecommunications taxes, most states have failed to enact meaningful reforms. On average, the typical consumer faces a 16.85 % total of taxes, fees and surcharges on wireless service each and every month: a 5.91% federal rate and a 10.94% state/local rate. One only needs to compare the average wireless rate of 16.85% to the average tax rate of 6.94% for other goods and services to see the need for reform.

State policymakers offer the defense that they need to ensure their citizens, especially those in rural and underserved areas, have access to advanced communication services through broadband networks; however, these same states ignore the effect sky-rocketing taxes have on consumers (19 states have double-digit transaction tax costs). Additionally, some state and local governments tax wireless communications at rates that approach those levied by “sin taxes” that were designed to discourage usage of a product. This seems an odd approach to facilitate expansion and use of wireless broadband across the country and especially in rural areas. The

ability for the wireless industry to continue its tremendous growth and deliver advanced services to urban and rural consumers depends on reasonable taxation.

Wireless broadband also can not fully occur without access to a core resource: spectrum. I applaud the leadership of this Committee for passing the Commercial Spectrum Enhancement Act that establishes a trust fund to relocate government users in specific bands. As a result, the auction of Advanced Wireless Service (AWS) licenses is scheduled to occur this June. The auction for AWS spectrum is, by any measure, critical to U.S. mobile wireless carriers and their customers. This auction represents the first significant expansion of allocated spectrum for third generation mobile wireless systems, and substantially increases the overall spectrum available for commercial mobile radio services. CTIA believes that the new services that can be introduced using this spectrum—including expansion of broadband data systems consistent with the Administration's priorities—will be of incalculable benefit to the American public and to the continued competitiveness of U.S. businesses and industries. This auction also holds the promise of strengthening intermodal competition for mass market broadband offerings. CTIA appreciates and supports the FCC efforts to hold this auction in June. CTIA also believes that in the auction context, in the absence of compelling reasons, the Commission should use standard procedures. CTIA believes the FCC should be cautious in implementing new auction procedures for the upcoming Advanced Wireless Services auction. CTIA is concerned about proposals that would result in increased complexity and potential market confusion for one of the most critical auctions in over a decade.

I also commend the leadership of this Committee in establishing a hard date for the release of valuable analog spectrum. The inclusion of the February 17, 2009 deadline in the Deficit Reduction Act will allow for improved public safety communications as well as further expansion of wireless broadband opportunities.

As stated earlier, the success of the wireless industry stems from the wisdom of Congress in 1993 when Section 332 of the Communications Act was amended to create a federal, deregulatory framework for "commercial mobile radio services," under which wireless services were exempted from many of the traditional, economic regulation typically applied in the landline context, as well as from state rate and entry regulation. The incredible and unprecedented growth of the mobile wireless industry over the last decade would not have been possible without the environment of regulatory constraint created by the Omnibus Budget Reconciliation Act of 1993. We ask Congress to reaffirm that wisdom and allow wireless to experience its next Renaissance. Our 13 year track record stands second to none in delivering enormous benefits to your constituents. Please let us take that to the next level.